Capilal—Cranganur' be voted by the House.

Question put and agreed to.

Bill to amend the Cochin Limitation Regulation.

President.—The demands are all over. We shall now take up the Bills.

Mr. K. P. Kannan Nayar.—Sir, I move that the Cochin Limitation Regulation Amendment Bill as amended by the Select Committee be taken up and passed.

Mr. A. B. Salem.—I second it.

President.—I think that nobody has to say anything about this.

The question before the House is that the Bill to amend the Cochin Limitation Regulation as amended may be taken up and passed.

Question put and agreed to.

The House rese for lunch at 2 p. m. and met again at 3 p. m. with the Deputy President in the Chair.

Bill to amend the Cochin Nayar Regulation.

Mr. K. P. Kannan Nayar.—I move that the Bill to amend the Cochin Nayar Regulation as amended by the Select Committee be further considered.

Deputy President.—Sections one and two are already considered. We shall go section by section or clause by clause. Clause 3. What about your amendment?

Mr. K. P. Kannan Nayar.—Those amendments we shall take up last.

Deputy President.—There is an amendment to section 3 A by Mr. A. Eachara Menon.

Mr. A. Eachara Menon.—What about 2, Sir? 'Insert after the Preamble a section as section 1 thus: "This Regulation may be called A Regulation to amend the Cochin Nayar Regulation, XIII of 1095 and it shall come into force at once".'

Deputy President.—That will be taken up last. One and two will be taken up last. Section three.

Mr. A. Eachara Menon.—Section 3, I oppose.

Deputy President.—Your amendment is only in regard to section 3 A. 3 A is a separate section. No amendment so far as that is concerned. We may put it to the votes.

Conjugal union of Nayars to be valid marriages.

"For section 3 the following shall be substituted:—"Subject to the restrictions of consanguinity and affinity recognised by the community, the conjugal union of a Nayar female with—

LIBRARY ARCHIVES Kerala Legislative Assembly

(a) a Nayar male

(b) any male other than a Nayar, with whom conjugal union is permitted according to social custom and usage.

Openly solemnised by the presentation of cloth to the female by the male, or in any other customary form before the date on which this Regulation comes into force and subsisting on such date, or so solemnised by the presentation of cloth after this Regulation comes into force shall be deemed to be a valid marriage.

Provided that in case of conjugal unions commenced before Regulation XIII of 1095 and subsisting when that Regulation came into force, the courts shall presume that such union was solemnised in the customary form."

The above clause was put and agreed to.

Deputy President.—The next one is section 3 A. Your amendment, Mr Eachara Menon.

Mr. A. Eachara Menon.—The amendment is 'to substitute '13' for '16' and '18' for '21' and add in the end 'and no consummation before the girl is 16 is allowed'.' In the section fixing the age, I don't think the committee has considered the present economic position of the Nayars and in what state they are now. If these ages are fixed, I fear many of the women will be driven to undesirable positions. It is very difficult to get educated husbands for girls. The father-in-law has to look to the educational feature of the son-in-law. If the age is fixed at 21, at the proper time it may not be possible for him to get a father-in-law to help him in his education. Further if the destitute girls are compelled to lead a single life till the age of 16, their position will be worse. If they are allowed to have their own marriage contracted before the age of 16, that will be helpful. Further, these years are fixed without considering the condition of the climate here. To me it seems that the attaining of the puberty is an indication that they have come to that age when sexual intercourse could be had without impairing the health. It may be true that no father-in-law would allow a girl to be given away while she is very young, but this will affect the poor people very badly. Hence I object to the fixing of the age.

Mr. V. V. Anantapadmanabha Ayyar.—I beg to second it. In the present Regulation there is absolutely no age limit fixed for the marriage of girls. In the Regulation as amended by the Select Committee the age fixed for a female for marriage is 16 and for a male is 21. The reason for this change has not been in any way propounded by the mover of the Bill. But I presume the reasons have been similar to those which have been advanced towards the introduction of the Child Marriage Restraint Bill. As far as I can see, none of the grounds referred to therein are applicable to the Nayar community; for, as we all know, the Nayar community is very much advanced in the matter of education and other matters; so much so

LIBRARY ARCHIVES Kerala Legislative Assembly

that it cannot be said that early marriage is a blot. So far as this community is concerned, there is nothing which has to be remedied in this respect.

Deputy President.—But early marriage is not very general among Nayars.

Mr. V. V. Anantapadmanabha Ayyar.—There is absolutely no need for legislation on this ground. My submission is that no change is absolutely necessary.

Mr. A. Sankara Menon.—Is the Hon'ble Member supporting the amendment?

Mr. V. V. Anantapadmanabha Ayyar.—I support the amendment because the amendment is more near the original state of affairs than the amending Regulation itself.

Deputy President.—Do you wish to say anything on that point?

Mr. A. Sankara Menon.—Yes, Sir. Whatever the age fixed for marriage, I think it is opposed to principle to have a certain age fixed for marriage and another for consummation. How the latter is to be enforced I cannot see. I don't think there is any necessity for having one age for the marriage and another for consummation. There is absolutely no practice like that, so far as the Nayar community is concerned. I do not think there is any necessity for importing a practice prevailing among the Brahmin community or some other community.

Mr. A. Eachara Menon.—Is this the practice now?

Mr. A. Sankara Menon.—No doubt no age was fixed in the former Regulation. But it is well known that in this community marriages seldom take place before the ages mentioned in the Regulation. I am strongly opposing the amendment and supporting the Bill as it stands.

Deputy President.—Anybody wishing to speak?

Mr. K. P. Kannan Nayar.—I regret I cannot accept this amendment for two reasons. One is, the mover of the amendment proposes one age for the ceremony of the marriage, that is, the mere ceremonial form of it, and another age for consummation, which is according to the practice that is now obtaining amongst the Brahmins. As the Law Member correctly puts it, there is no such system of marriage first and then consummation at a later stage so far as the Nayar community is concerned. If this amendment were to be accepted, we shall have to provide for two ceremonies. That means two items of expenditure. The first objection raised by the mover himself was for economic reasons we shall have to provide two ages, one for marriage and another for consummation. For that very reason I would oppose the amendment. If it is to be accepted, we shall have to perform two ceremonies instead of one as it is now done. So far as the

LIBRARY ARCHIVES Kerala Legislative Assembly

Nayar community is concerned, there was no limit for the marriageable age. There were not many marriages performed before the girl attained majority. There were no child marriages as now. But recently I have occasion to find from the Gazette itself a number of marriages performed while the girl was even twelve or thirteen or fourteen. I was in fact surprised to find that, in a community where the marriage was celebrated at rather advanced and maturer years, marriages were being performed while the girl was only in her teens-even before the teens 12, 13 and 14. In the Karkadagam Gazette there were five or six instances of marriages where the girl was married before she was thirteen. Now it is growing into practice. It is an undesirable practice. But the objection of the mover was that the father-in-law will have to provide for the education of his son-in-law. But the difficulty will be, if the marriage is celebrated at 13 or 14, the father-in-law will have to provide also for the maintenance of the children of his daughters. By the time the son-in-law completes education he may be burdened with two or three children. The father-in-law will have to bear the additional expenditure of looking after these children also. That will be an impediment also so far as the girls' education is concerned. So I think for more reasons than one it is opposed to the custom prevailing in the community. I don't think that 16 is after all a very advanced age for girls to become married, and especially in the Nayar community which is, so far as the marriage itself is concerned, becoming more and more advanced. I don't think we must go back and put it at 13 and 18. For these reasons I don't think I shall be in a position to accept this amendment. This question was considered by the Select Committee very anxiously, and the age was fixed at 16 and 21 after mature consideration. I would urge upon all the Members of this House to support the clause as it is there and to oppose the amendment.

Deputy President.—The amendment is 'to substitute '13' for '16' and '18' for '21' and to add in the end "and no consummation before the girl is 16 is allowed".'

Amendment put and negatived.

Deputy President.—The clause reads thus:—

"After section 3 and before section 4 the following sections shall be added:—

3 A. No marriage solemnised after the date of this Regulation between a female under 16 years of age and a male under 21 shall be a valid marriage.

Provided also that no conjugal union of a minor female solemnised after the date of this Regulation shall be deemed to be legal unless it takes place with the consent of the guardian of such minor.

LIBRARY ARCHIVES Kerala Legislative Assembly

Notice of a marriage under this Regulation shall be given by such person and to such authority and in such form and within such time as the Government may prescribe. Failure to give the prescribed notice shall be punishable with fine which may extend to Rs. 200, but such failure shall not invalidate the marriage or affect the legal rights of the parties to or the offspring of such marriage,"

Clause put and agreed to.

Deputy President.— Then clause 3 B. There is an amendment to that. As the first amendment is lost, there is no necessity for this amendment.

Mr. A. Sankara Menon.—All those will go together.

Deputy President.—"3B. Whoever being a male above 18 years of age solemnises a marriage declared invalid under section 3 A shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

3 C. Where after the date of this Regulation a marriage is solemnised by a minor any person having charge of such minor whether as parent or guardian or in any other capacity who does any act to promote the marriage or permits it to be solemnised shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both. For the purpose of this section it shall be presumed unless and until the contrary is proved that, where a minor has contracted a marriage declared invalid under section 3 A, the person having charge of such minor as parent or guardian has permitted the solemnisation of such marriage.

3 D. No court other than that of the District Magistrate shall take cognisance of or try any offence under sections 3 A, 3 B and 3 C.

3 E. No court shall take cognisance of any offence under sections 3 A, 3 B and 3 C save upon complaint made within one year of the commission of such offence."

The above clauses were put and agreed to.

The following amendments of Mr. A. Eachara Menon were consequential to that on section 3 A and hence these were not considered.

Mr. A. EACHARA MENON.

In 3 B after 'solemnises a marriage' and before 'declared' add 'or effects a consummation'.

In 3 C add 'or a consummation effected' after 'solemnised' and before 'by a minor'.

Add 'consummation' after marriage in line 3 and put 'them' for 'it' in line 4.

Add 'or effected a consummation' in line 7.

Add in the end of 3C 'or consummation.'

Deputy President.—"In section 6, omit the words 'in all cases'." The omission of this is only on the ground that it is unnecessary.

Mr. K. P. Kannan Nayar.—Those words are superfluous. It is only on that ground.

Clause 6 was put and agreed to.

Deputy President.—"In section 11, the first line, between the

LIBRARY ARCHIVES Kerala Legislative Assembly

words 'minor children' and 'as also' insert the words 'excepting married daughters living with their husbands'.' The object of this is clear. For, as the Regulation now stands, even if the married daughters are living with their husbands, the father will be liable to maintain them. There is no necessity for that.

Clause 11 was put and agreed to.

Deputy President.—"In section 13 omit the word "former" in "a former husband"." It is only a verbal alteration.

Clause 13 was put and agreed to.

Deputy President.—"Sections 14 to 17 inclusive, insert after the words 'children or' wherever the words occur "the thavazhi or thavazhies of his deceased daughter or daughters" and omit "or both"." This section refers to the inheritance, etc.

Clauses 14—17 put and agreed to.

Deputy President.—"In section 18 after the word 'children, add the following words, namely,—"nor the thavazhi or thavazhies of deceased daughter or daughters"."

It is only in consequence of the alteration made in the other sections. That also may be passed. No objection.

Clause put and agreed to.

Deputy President.—"Add the following as explanation to section 27. "For the purpose of the section, the term 'net realised income' means the surplus income left, if any, after meeting all the tarawad expenses including interest on tarawad debts"."

I hope there is no objection for that also.

Clause put and agreed to.

Deputy President.—"For section 28, the following shall be substituted. "Except with the written consent of all the major members of the tarawad, wherever possible, no karanavan or the manager for the time being, shall sell, mortgage or pledge tarawad property, movable or immovable or lease it for a period of more than 6 years or grant renewals of kanom, for a period of more than 12 years or give discharge of such mortgages of pledges.

For the purpose of this section, movables include ornaments, vessels and other valuables and do not include usufructs and grains realised in the shape of pattom"."

Mr. V. V. Anantapadmanabha Ayyar.— What is meant by 'wherever possible' ? What are the impossible contingencies?

Deputy President.—Suppose the major members are not on the spot or their whereabouts are not known.

Mr. V. V. Anantapadmanabha Ayyar.—It requires some sort of specification or more explicit definition.

Deputy President.—'Wherever possible' is the only word. That section was recast. 28 may also be taken as passed.

Clause put and agreed to.

LIBRARY ARCHIVES Kerala Legislative Assembly

Deputy President.—"For section 29 the following shall be substituted :—

"No sale, mortgage, pledge or other alienation of tarawad property shall bind the tarawad unless it is executed or made for tarawad necessity or it is executed or made by or with the written consent of all the adult members of the tarawad when there are only adult members in the tarawad".

Mr. T. M. Krishna Menon.—Is this not covered by sections 31 and 28?

Deputy President.—As section 29 now stands, even if all the members execute the sale deed, it will not affect the *tarawad*.

Mr. A. Eachara Menon.—Section 31 read with 28.

Mr. K. P. Kannan Nayar.—The amendment is not moved.

Mr. V. V. Anantapadmanabha Ayyar.—I don't move.

Hence the following amendment was considered withdrawn.

Mr. V. V. Anantapadmanabha Ayyar.— 'Add after section 29 'Provided that when all adult members of a tarawad join together in executing a sale, mortgage or pledge or other alienation of a tarawad property for consideration, the court shall presume that the alienation is for tarawad necessity".'

Mr. T. M. Krishna Menon.—Section 31. According to the section as it stands, the burden of proving *tarawad* necessity is on the purchaser, mortgagee, pledgee or other alienee or creditor as the case may be. But the court may presume such necessity where the transaction is in accordance with the provisions of section 28. Section 28 however does not speak of simple debts. There is, therefore, no provision for making a similar presumption in the case of simple debts.

Deputy President.—There is no question of simple debts there. If somebody moves an amendment, it is all right.

Mr. T. M. Krishna Menon.—The presumption does not apply to simple debts.

Clause put and agreed to.

Deputy President.—Then 32.

"For section 32, the following shall be substituted· "In a suit against the tarawad all the major members thereof should be made parties but the omission to make any member other than the karanavan as such shall not by itself invalidate a decree obtained against the tarawad, if it is otherwise shown to be one properly binding on it'."

Mr. T. M. Krishna Menon.—What is the virtue in this? The expression "if it is otherwise shown to be one properly binding on it" shows that the burden is upon the person who obtains the decree. What is the special advantage we get, if all the adults are made parties?

LIBRARY ARCHIVES Kerala Legislative Assembly

Deputy President.—It will be binding. The omission shall not by itself invalidate a decree.

Mr. T. M. Krishna Menon.—Minors cannot question.

Deputy President.—They can question.

Mr. T. M. Krishna Menon.—That ought to be the effect. That does not follow.

Deputy President.—That is the original section. No decree shall bind the *tarawad* unless it be obtained in a suit against the *karanavan* as such and all the members of the *tarawad*. Ordinarily no decree is binding unless all the major members are made parties.

Mr. T. M. Krishna Menon.—To which do these words apply, "as such"?

Deputy President.—A party.

Mr. T.M. Krishna Menon.—Where does the word 'party' appear? There must be some other word. Without that, it is meaningless.

Deputy President.—Is there any other amendment with regard to that?

Mr. T. K. Krishna Menon.—I would propose, Sir, that the words 'unintentional' be added before 'omission' and 'one' before 'member'. Otherwise, a suit against *karanavan* as such, without impleading all the other members, will be considered good.

Deputy President.—Suppose the names of two members are omitted. You say one member.

Mr. T. K. Krishna Menon.—That is what I say. Suppose the names of three members are omitted. That will come to this. Suppose the names of all the members are omitted except that of the *karanavan*; even then the decree will be valid. Is that the intention of the Nayar Regulation?

Deputy President.—Unintentional omission to make any member a party means the same thing.

Mr. K. P. Kannan Nayar.—So far as the words "unintentional omission" are concerned, I think it may be accepted. But "any one member," I do not think it can be accepted

Mr. V. V. Anantapadmanabha Ayyar.—I oppose the amendment just brought forward. The framing of the suit has already been made very strict. Now, in suits against *tarawad*, originally the *karanavan* was a necessary party. But after that, the senior *anandaravan*, that is, the next senior member, also was made a necessary party to the suit in order to obtain a valid decree.

Deputy President.—Not here.

Mr. V. V. Anantapadmanabha Ayyar.—In Travancore,

LIBRARY ARCHIVES Kerala Legislative Assembly

according to the Nayar Regulation, the *karanavan*, the senior *ananaravan* and the senior *anandaravans* of all collateral *thavazhies* are also made paties to obtain a decree against the *tarawad*. But here, the *karanavan* as such and all the adult members are made necessary parties; that itself. I think, is a very difficult task for a plaintiff. Now, that being so, the present amendmet compels a creditor to implead the *karanavan* and all the adult members, but if, by some chance or other, the name of any one member is omitted, and if he brings a suit to set aside the decree on that ground, then the creditor can prove that it is a valid debt binding upon the *tarawad*, and then he can execute the decree. So, there is one opportunity given to him to oppose the execution of the decree which has been obtained without impleading him. The amendment suggested by the Secretary goes to say that first of all the creditor, that is, the person who has obtained a decree, must show that the omission was unintentional. That is to say, 'unintentional' means that he had exercised all due care and attention and that his non-impleading was due to a bona fide mistake and all that. Therefore, my submission is that, if a decree had been obtained against the *karanavan* as such and all the other members, and if any omission has been made, and if that member whose name has been omitted comes forward and obstructs execution, then the creditor has to show to the court that the decree is valid on the merits. That provides sufficient safe-guard so far as the *tarawad* is concerned. I do not think any further safe-guard is necessary.

Deputy President.— According to the amendment, the burden will be on the person on whom is the decree.

Mr. V. V. Anantapadmanabha Ayyar,— The person who is to show that it is properly binding on the *tarawad* is the creditor. So, the person who has not been impleaded gets one opportunity to impeach the decree.

Deputy President.—So, the amendment may be to substitute 'implead' for 'make' and to add 'unintentional' before 'omission.'

Mr. K. P. Kannan Nayar.—I don't think it is necessary.

Clause put and agreed to.

Deputy President.—"Section 32 A. "Notwithstanding anything contained in the original Section 32, decrees to which it applied shall be construed as if the present Section 32 stood in its place from the beginning"."

May I take it as passed ?

Mr. T. M. Krishna Menon.—There is one difficulty that has to be pointed out. Suppose, for instance, a suit upon a mortgage has been brought and a decree is passed, the decree can be invalidated for the reason that all the members are not parties.

LIBRARY ARCHIVES Kerala Legislative Assembly

In giving retrospective effect, the case of bona fide purchasers may be considered. Those innocent persons may be affected when retrospective effect is given. There is that aspect of the question which may be considered before accepting this.

Mr. C. V. Kuriyan.—That aspect will not arise

Deputy President.—It may arise. Then section 32 A can be taken as passed.

Clause put and agreed to.

Deputy President.—"In section 33 add the words 'whether such member lived in the tarawad house or not' after the word 'tarawad' in line 3 and omit the second sentence of the first paragraph".

Mr. V. K. Aravindaksha Menon.—If he lives away from the *tarawad* house and if maintenance is sent on to him, it may not be possible to have a joint family.

Deputy President.—Courts have gone to the other extreme. Some reason should be given. Any reason is sufficient.

Mr. V. K. Aravindaksha Menon.—That is a matter for the courts. Therefore, I say that there should be some good ground for so doing.

Mr. V. V. Anantapadmanabha Ayyar.—It is better that those grounds may be specified. Otherwise let us have the amendment as it is. Because a right to maintenance is something less than a right to get a partition, and when there is a cry for individual partition everywhere, why should we have a right for maintenance?

Deputy President.—I will put it to votes.

Mr. P. Krishna Menon.—The position may be explained.

Deputy President.—Section 33 provides for separate maintenance for those who are living outside the *tarawad* house, and they are to show some good ground for separate maintenance. By the amendment maintenance should be given without assigning any reason. So let the old section stand. I will put that clause to votes. The amendment is opposed by Mr. Anantapadmanabha Ayyar. The old section is restored.

Amending clause put and negatived.

Deputy President.—Then section 35 A: "Every member of a tarawad has also the right on behalf of the tarawad to compel the karanavan or the manager for the time being to render an account of his management of the tarawad and also to recover the losses, if any, the tarawad has sustained on account of his fraud or misappropriation".

There is an amendment in the name of Mr. Anantapadmanabha Ayyar.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. V. V. Anantapadmanabha Ayyar.—Amendment:—"The karanavan or manager is liable to render an account of his management of the tarawad properties on demand made by a majority of not less than two-thirds of the adult members of the tarawad". The object of section 35 A is to make the *karanavan* liable to account for the management of the *tarawad*. As it is, any member of the *tarawad* can file a suit as against a *karanavan* and successive suits can be filed by all junior members of the *tarawad* if they choose. Now, already the position of the *karanavan* has been made too precarious. His position has been made not at all desirable. He is to maintain all the *tarawad* members, and then he is to keep correct accounts, and then he is to show these accounts to the junior members, and then he has to manage the *tarawad* properly and for no remuneration after all. And then we find that the *karanavan* is held liable to account for any losses sustained by the *tarawad*. My submission is that it will be placing him in a very awkward position. Any recalcitrant junior member might take it into his head to file a suit against the *karanavan* and drag him into a court of law, and if the *karanavan* succeeds, he will not be able to recover the costs of the suit from the junior member who may have nothing to pay. A pauper suit can be instituted by a junior member who has got no property in his name, and thus every *tarawad* can be brought into a court of law, and that means waste of money. In Travancore, according to the Nayar Regulation, even though every member has got a right to get individual partition, with the consent of the lenial ascendant in the *tarawad*, any junior has no right to ask for accounts. My submission is that such a power should not be given to them, and if they are given, they are likely to abuse it. I quite agree with the spirit of the amendment, that is to say, the *karanavan* should be liable to account for his management, but only in cases where a majority of not less than 2/3 of the members demand account. If 2/3 of the number cannot be had, my submission is any *thavazhi* can institute a suit for partition and then separate themselves from the *tarawad*. It might be said that 2/3 of the members cannot be brought together in order to claim an account from the *karanavan*, because it might be that some *thavazhi* or other might be colluding with the *karanavan*, so that 2/3 members will not be available. In such a case, the minority can institute a separate suit against the *tarawad* for partition. Therefore, my submission is that on no account can a *karanavan* be molested by being exposed to an action to render accounts to the junior members. Therefore, it is that I move the amendment.

The *kayanavan*, has to render accounts, and so a suit may be brought by any *anandaravan* for this purpose. If the suit is

LIBRARY ARCHIVES Kerala Legislative Assembly

dismissed, who will pay the cost? After 6 months another suit may follow. The cause of action is of a recurring nature. In such a case, the *karanavan* will be put to serious trouble.

Mr. T. M. Krishna Menon.—As the law now stands, a suit for accounts follows a suit for removal. But there is now a separate suit for accounts.

Mr. V. K. Aravindaksha Menon.—I think it is not sufficient if we make provision for one member of the *tarawad* to bring a suit. I think that a minimum should be fixed.

Mr. P. Nilakanta Menon.—If the majority of members join with the *karanavan*, they will not safeguard the interests of the minority.

Mr. V. K. Aravindaksha Menon.—There should be a certain minimum number of members for bringing a suit.

Mr. K. P. Kannan Nayar.—As the law now stands, every member has a right to look at the accounts, and the *karanavan* is bound to show the accounts. Supposing there is a lot of misappropriation, the law does not give any relief to the *anandravan* for recovering the amount.

മിസ്റ്റർ ടി. കെ. നായർ.—നായർ തറവാടിനെ നിലനിർത്തുവാനാണ് ഉദ്ദേശമെങ്കിൽ ഒരാൾക്കുതന്നെ ഈ അധികാരം കൊടുക്കുവാൻ പാടുള്ളതല്ല. ഒരാൾ കണക്കു നോക്കിയ ശേഷം വല്ല തർക്കാരകളും ഉണ്ടെങ്കിൽ കായ്യം മറ്റുള്ളവരെ മനസ്സിലാക്കിയാൽ എന്തെങ്കിലും പ്രവർത്തിക്കേണമെങ്കിൽ ഭൂരിപക്ഷം തീർച്ചയായും കിട്ടും ഓരോരുത്തനും തോന്നുംപോലെ ചെയ്യുവാൻ അനുവദിക്കുന്നതുകൊണ്ടാണ് തറവാട്ടുകാർക്കു കൊള്ളരുതാത്ത നില വരുന്നത്. പിന്നെ കാരണവന്മാരെ യോഗ്യതയില്ലെങ്കിൽ എങ്ങിനെ ഭൂരിപക്ഷം കിട്ടും? അങ്ങിനെ ഭൂരിപക്ഷം കിട്ടിയിട്ടുള്ളവന്റെ തറവാട് നശിക്കയാണെങ്കിൽ നശിക്കട്ടെ എന്നു വെക്കുകയെ തരമുള്ളൂ. അല്ലാതെ കൊള്ളരുതാത്ത ഒരുവൻ ഓടിച്ചെന്നു കാരണവരെ തോല്പിക്കുവാൻ മാത്രമായി ഒരു കേസ്സു കൊടുക്കുകയെന്നതിനെയാണ് തടയേണ്ടതു്. ഒരിക്കലും അനാവശ്യമായി ഒരു തറവാടിനെ കോടതി കേറരുതെന്നാണ് എന്റെ അഭിപ്രായം. ആ section കൊണ്ടു ഇതിനു വിരോധമുണ്ടെന്നു തോന്നുന്നില്ല.

Deputy President.—They will have to get a majority.

മിസ്റ്റർ ടി. കെ. നായർ.—നോക്കിക്കോട്ടെ. നോക്കിയിട്ടു മറ്റുള്ളവരോടു ചോദിക്കയൊ പറകയൊ ചെയ്തിട്ടു ഭൂരിപക്ഷം കിട്ടിയാൽ ചെയ്യാട്ടെ.

എല്ലാ കാരണവന്മാരും തറവാട്ടുകാരെ തോല്പിക്കുന്നവരാണെന്നു വിചാരിച്ചു നിയമമുണ്ടാക്കരുതു്.

ഡെപ്യൂട്ടി പ്രസിഡെണ്ടു്.—ഞാനും ഒരു കാരണവനാണ്. അതുകൊണ്ടല്ല പറയുന്നതു്. ഒരുവന്നു കണക്കുനോക്കുവാനവകാശമുണ്ടു്. എന്നാൽ ആ ന്യായം കൊടുക്കുവാൻ എല്ലാവരും ചേരണം എന്നു പറയുന്നതുയോജിക്കുമോ? എന്നാൽ ഈ section omit ചെയ്യുകയാവും ഭേദം.

Mr. T. M. Krishna Menon.—If he has to depend upon the other members, how will he enforce this? The suggestion that I made may not conflict with this.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Sankara Menon.—On account of a decision of the Chief Court this amendment became necessary. It is only a corollary to this section.

Deputy President.—Consistent with section 35, I don't think that Mr. T. K. Nayar's amendment can be brought.

Mr. A. B. Salem.—Though I am a lawyer, I have not read that judgment of the Chief Court. Was there such a judgment that the *anandravan* cannot sue for the recovery of the amounts?

Deputy President.—The decision was that he can ask to render accounts, but he cannot sue for recovery.

Mr. K.P. Kannan Nayar.—I really cannot understand how this goes against the spirit of the law. If there is misappropriation, the money may be recovered. There is a provision in the Regulation for the *karanvan* to renounce. Supposing the other members think that they do not want to remove him. I do not think there can be any difficulty.

Mr. V. V. Anantapadmanabha Ayyar.—The only difficulty is whether we are justified in putting this great power in the hands of the junior members so that one single individual can bring forward a suit.

Mr. A. Sankara Menon.—May I suggest a compromise, Sir? In a suit for partition or removal of *karanavan* every member has a right. That is, in a suit for partition or removal of *karanavdn* he can be asked to render accounts.

Mr. T. M. Krishna Menon.—In that case I will not have objection.

Mr. V. K. Aravindaksha Menon.—What is the harm in having a minimum number of members to bring a suit? He must consult others.

Mr. K. P. Kannan Nayar.—So far as the suggestion of the Government Advocate is concerned, I don't think that any amendment is necessary. Here the difficulty is only with regard to fraud and misappropriation; he will have to account for that money. Who says he is not accountable now? We shall have to suppose that no such remedy exists now.

Whether that section should be omitted or not can be considered to-morrow.

Deputy President.—We shall put off section 35 A for to-morrow.

The consideration of section 35 A was put off.

Deputy President.—We shall take up the next section.

"Delete clause (a) of section 39 and substitute clause (b) of the same section as section 39 adding the words "without her consent" at the end."

Mr. P. Nilakanta Menon.—Suppose the majority want to compel one to get out of the *thavazhi* without partition among themselves. Can it be done?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. M. Krishna Menon.—Section 39 is negative and the other is positive. The right is given under section 40.

Mr. K. P. Kannan Nayar.—The two sections may be read together.

Mr. T. M. Krishna Menon.—I have got a doubt as to what the necessity for the word 'compel' in the section is.

The House rose for the day at 1' to 5 p. m.

T. K. KRISHNA MENON,

Secretary to the Council.

LIBRARY ARCHIVES Kerala Legislative Assembly